



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,246	11/07/2001	Ronald Huber	1999P8051	2769
24131	7590	10/14/2004	EXAMINER	
LERNER AND GREENBERG, PA P O BOX 2480 HOLLYWOOD, FL 33022-2480			KEENAN, JAMES W	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/014,246	HUBER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	James Keenan	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 15 July 2004.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-5,8-16,20-23 and 25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5,8-16,20-23 and 25 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)                            4) Interview Summary (PTO-413)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                            Paper No(s)/Mail Date. \_\_\_\_\_.  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.                            5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

1. Applicant alleges that the examiner failed to address claim 17 in the previous Office action. Claim 17 was cancelled in the amendment filed 1/26/04.
2. Claims 1 and 25 are objected to because of the following informalities: --a-- or --the-- should be inserted before "vicinity". Appropriate correction is required. Applicant alleges that the term "vicinity" is not found in claims 1 or 25. This term, along with other language, was added to claims 1 and 25 in the amendment filed 1/26/04.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-5, 8-16, 20-23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ettelbruck (WO 99/10175) in view of Iwasawa (JP 63-37626, previously cited).  
  
Ettelbruck shows an apparatus for fabricating articles, comprising fabricating units 1 for performing at least wet chemical processes, cleaning techniques, etc. in a room having longitudinal inner walls (not explicitly labeled but clearly seen in the figures), a transport system including a portal crane installation extending across the room and having parallel tracks 4 disposed in the vicinity of the inner walls, holding device 8 extendable in a vertical direction, carrier 3 extending transverse to the tracks and having ends at longitudinal sides thereof which are movably mounted in the tracks, bogie 7 guided in a rail guide of the carrier and to which the holding device is fixed such

that the articles to be processed can be held by the holding device and manipulated in three-dimensions so that the fabrication units can be disposed in the room at positions independent of the transport system.

Ettelbruck does not show the articles to be semiconductor products disposed in a transport container to be processed in a clean room.

Iwasawa, as previously noted, shows an overhead transport system in a clean room environment wherein semiconductor products are disposed in containers 15 which are brought to fabrication units 13 by the overhead transport system.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Ettelbruck by utilizing the apparatus in a clean room environment to perform processing on semiconductor products held in containers, as shown by Iwasawa, as this would simply be the use of a well known transport system in an installation to perform fabrication processes on different articles, which would neither require undue experimentation nor produce unexpected results.

5. Claims 1-5, 8-16, 20-23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwasawa in view of Ettelbruck.

As noted previously, Iwasawa shows the invention essentially as claimed except the carrier moves along the track only in a single dimension.

Ettelbruck, as noted above, shows a carrier extending transversely between tracks such that a bogie can move therealong, as well as showing the tracks disposed along walls of the room.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Iwasawa by mounting the holding device on a bogie mounted for transverse movement along the carrier, itself extending between tracks disposed near inner longitudinal walls of the room, as shown by Ettelbruck, as this would enable the holding device to reach any fabricating unit in three-dimensions and thus allow the fabricating units to be disposed in the clean room independent of the transport system.

6. Applicant's arguments filed 7/15/04 have been fully considered but they are not persuasive.

The declaration filed on 7/15/04 under 37 CFR 1.131 has been considered but is ineffective to overcome the Ettelbruck reference.

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Ettelbruck reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Ettelbruck reference.

The scope of the invention described in the declaration is not commensurate in scope with that of the claims.

As acknowledged by applicant, the declaration is unsigned. Notwithstanding the above, this alone would technically preclude the declaration from overcoming the rejection. However, even if a signed copy is supplied, the declaration would still be insufficient for the reasons set forth above.

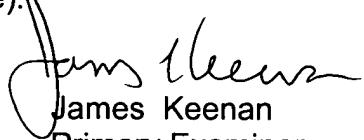
**7. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**8.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 703-308-2559. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James Keenan  
Primary Examiner  
Art Unit 3652

jwk  
10/7/04